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on this date: June 3, 2004

(Date of Deposit)

FRANK C. NICHOLAS (33,983)

Name of applicant, assignee or registered representative

Frank C. Nicholas
Signature

June 3, 2004

Date of Signature

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JUN 09 2004

Technology Center 2600

PATENT
Case No.: AUS920010312US1
(9000/29)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:

PATRICK J. BOHRER, ET AL.

Serial No.: 09/903,721

Filed: JULY 12, 2001

Title: DATA STORAGE ON A MULTI-TIERED
DISK SYSTEM

Examiner:

Group Art Unit: 2651

PETITION UNDER MPEP 711.03(c)II

Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants petition to withdraw this case from abandonment.

On May 28, 2004, a Notice of Abandonment issued indicating that Applicants failed to respond to a Notice of Missing Parts. However, Applicants did not receive the Notice, and instead received a full filing receipt.

Applicants respectfully assert that the Notice of Missing Parts was never received by the practitioner and that a search of the file correspondence and docket records indicates that the Office Action was never received. A Statement from the Practitioner to this effect is enclosed as Exhibit A. A copy of the docket record where the nonreceived office communication would have been entered had it been received is attached as Exhibit B.

Indeed, Applicants note that the filing receipt (attached as Exhibit C) received was complete, and indicates the Applicants names, as well as residences, and consistent with the notation of "Page 1 of 3" in the upper right corner of the Filing Receipt, 3 pages were received by Applicants. Although the Filing Receipt indicates that the Projected Publication Date is "To Be Determined – pending completion of Corrected Papers", none of the 3 pages received by Applicants indicate that the filed Application was missing parts, or specify exactly what defect needs correction with "Corrected Papers."

The transmittal of the application, filed with the Application indicates that the Declarations and a Power of Attorney were properly filed with the application.

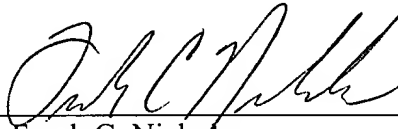
In short, this Abandonment appears to be the result of PTO mistake, as no Notice of Missing Parts appears to have been sent. In any event, however, any abandonment of this application was unavoidable, as Applicants were unaware of any defect in their application until receipt of the Notice of Abandonment.

Rapid granting of this petition is requested.

Dated: June 3, 2004

Respectfully submitted,
PATRICK J. BOHRER, *et al.*

CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, Illinois 60201
Phone: (847) 905-7111



Frank C. Nicholas
Registration No. 33,983
Attorney for Applicants

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Patents, P.O. Box 1450, Alexandria, VA 22202-1450
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FRANK C. NICHOLAS (33,983)
Name of applicant, assignee or registered representative

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PATENT
Case No.: AUS920010312US1
(9000/29)

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Petition Under MPEP 711.03(c)II
STATEMENT OF PRACTITIONER
EXHIBIT A

Attention: Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22202-1450

Dear Sir:

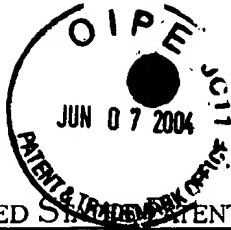
I am the attorney in charge of this matter. I have not received a copy of the Notice of Missing Parts at issue with the enclosed petition. A search of the jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived office communication would have been entered had it been received is attached and is herein referenced as Exhibit B.

Dated: June 3, 2004

Respectfully submitted,

CARDINAL LAW GROUP
1603 Orrington Avenue, Suite 2000
Evanston, Illinois 60201
phone 847.905.7111
facsimile 847.905.7113

Frank C. Nicholas
Frank C. Nicholas
Attorney of Record
Registration No. 33,983



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO.	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/903,721	07/12/2001	2651	728	AUS920010132US1	3	21	3

CONFIRMATION NO. 9310

FILING RECEIPT



OC000000006474867

Frank C. Nicholas
CARDINAL LAW GROUP
Suite 2000
1603 Orrington Avenue
Evanston, IL 60201

Date Mailed: 08/27/2001

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Customer Service Center. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Patrick J. Bohrer, Austin, TX;
Elmootazbellah N. Elnozahy, Austin, TX;
Charles R. Lefurgy, Round Rock, TX;
Ramakrishnan Rajamony, Austin, TX;
Bruce A. Smith, Austin, TX;

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Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY;
IBM Corporation;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 08/25/2001

Projected Publication Date: To Be Determined - pending completion of Corrected Papers

Non-Publication Request: No

Early Publication Request: I

EXHIBIT C

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AUG 20 2001

CARDINAL LAW GROUP

Title

Data storage on a multi-tiered disk system

Preliminary Class

360

Data entry by : LE, THANH-LAN

Team : OIPE

Date: 08/27/2001

**LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15**

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

PLEASE NOTE the following information about the Filing Receipt:

- The articles such as "a," "an" and "the" are not included as the first words in the title of an application. They are considered to be unnecessary to the understanding of the title.
- The words "new," "improved," "improvements in" or "relating to" are not included as first words in the title of an application because a patent application, by nature, is a new idea or improvement.
- The title may be truncated if it consists of more than 500 characters (letters and spaces combined).
- The docket number allows a maximum of 25 characters.
- If your application was submitted under 37 CFR 1.10, your filing date should be the "date in" found on the Express Mail label. If there is a discrepancy, you should submit a request for a corrected Filing Receipt along with a copy of the Express Mail label showing the "date in."
- The title is recorded in sentence case.

Any corrections that may need to be done to your Filing Receipt should be directed to:

Assistant Commissioner for Patents
Office of Initial Patent Examination
Customer Service Center
Washington, DC 20231

ATTORNEY(S) 1 CIV

9000/29
CLIENT/MATTER NO.

Client's Reference No. AVS920016

INVENTOR(S) Patrick J. Bohrer, El Mootaz Bel
Charles R. Leturgay, N. ELNOZAH
BRUCE A. SMITH, Ram KRISHNAN K.

APPLICATION OF

TITLE: DATA STORAGE ON A
MULTI-TIERED DISK SYSTEM

SERIAL NO. 09/903,721

FILING DATE July 12, 2004

GROUP ART UNIT 2651

EXAMINER

ASSIGNEE

ASSIGNMENT RECORDED:

REEL:

FRAME(S)

PATENT NO.

ISSUE DATE

OFFICE ACTION DATED	RESPONSE DUE	RESPONSE FILED

RECEIVED

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MAINTENANCE DUE	REMINDER LETTER SENT TO CLIENT	FORMAL PAPERS SENT TO PTO	FORMAL ACCEPTANCE

CONTINUING DATA INFORMATION

	Client/Matter No.	Serial No.	Filing Date
U.S. Foreign			
U.S. Foreign			
U.S. Foreign			
U.S. Foreign			

REMARKS:

EXHIBIT B

BEST AVAILABLE COPY.



CLIENT/MATTER NO. 9000, 29